

Remarks

I. Status of the Claims

Reconsideration of this Application is respectfully requested. Entry of this amendment after final rejection is respectfully requested to put the claims in condition for allowance.

Upon entry of the foregoing amendments, claims 29-30, 32-33, 78-79, 89-90, 96, 104, 117 and 123-154 are pending in the application, with 29, 33, 78, 132, 142 and 147 being the independent claims. Claims 1-28, 31, 34-77 and 80-81 were cancelled previously and claims 82-88, 91-95, 97-103, 105-116 and 118-122 are sought to be cancelled herewith without prejudice to or disclaimer of the subject matter therein. Claims 29, 33 and 78 are sought to be amended. The amendments to claims 29, 33 and 78 are supported by the originally filed claims and specification including, *inter alia*, original claims 14-19 and in the specification at page 6, paragraph 26, and page 7, paragraphs 28 and 30. New claims 126-154 were added merely to separate out the hybridoma cell lines disclosed in previously presented claims 93, 107 and 120 and to include the hybridoma cell lines TF196 and TF9, which are supported by original 15-17, 20-21 and 26-27.

These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendments and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

II. Rejections Under 35 U.S.C. § 102

On pages 3-5 of the present Office Action, claims 29, 30, 32, 33, 78 and 79 stand rejected and claims 82, 88-92, 96, 97, 99, 103-106, 110, 112, 116-119 and 123-125 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Edgington *et al.*, U.S. Pat. No. 5,223,427.

Solely to advance prosecution, and not in acquiescence to the rejections, independent claims 29, 33 and 78 are sought to be amended to incorporate the limitations of previously presented claims 93, 107 and 120, respectively. The remaining claims listed in this rejection depend directly or ultimately from claims 29, 33 and 78. In the present Office Action, claims 93, 107 and 120 were not rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by Edgington *et al.* Edgington *et al.* does not teach an antibody obtained from the hybridoma cell lines recited in independent claims 29, 33 and 78. Additionally, Edgington *et al.* does not teach an antibody obtained from the hybridoma cell lines recited in new independent claims 132, 142 and 147. Thus, Applicant respectfully requests the rejection under 35 U.S.C. § 102(b) be withdrawn.

III. Rejections Under 35 U.S.C. § 103

A. Rejections Under 35 U.S.C. § 103(a) over Edgington *et al.* in view of Koomagi *et al.*

On pages 5-6 of the present Office Action, claims 29, 30, 32, 33, 78 and 79 stand rejected and claims 82, 88-92, 96, 97, 99, 103-106, 110, 112, 116-119 and 123-125 were rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over Edgington *et al.* in view of Koomagi *et al.*

Solely to advance prosecution, and not in acquiescence to the rejections, independent claims 29, 33 and 78 are sought to be amended to incorporate the limitations of previously presented claims 93, 107 and 120, respectively. New claims 126-154 were added merely to separate out the hybridoma cell lines disclosed in previously presented claims 93, 107 and 120 and to include the hybridoma cell lines TF196 and TF9. The remaining claims listed in this rejection depend directly or ultimately from claims 29, 33 and 78. In the present Office Action, the Examiner did not reject claims 93, 107 and 120 under 35 U.S.C. § 103(a). Hence, Applicant believes claims 29, 30, 32, 33, 78, 79, 82, 88-92, 96, 97, 99, 103-106, 110, 112, 116-119 and 123-125 as currently presented are allowable over Edgington *et al.* in view of Koomagi *et al.* because Applicant has incorporated the elements of claims 93, 107 and 120, deemed by the Examiner to be allowable over this art, into independent claims 29, 33 and 78, respectively. As such, Applicant respectfully believes that the Examiner's rejection that is based on the combination of Edgington *et al.* in view of Koomagi *et al.* has been overcome, and requests that the Examiner reconsider and withdraw the rejection.

B. Rejections Under 35 U.S.C. § 103(a) over Edgington et al. in view of Kipriyanov et al.

On page 12 of the present Office Action, claims 85, 87, 100, 102, 113 and 115 were rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over Edgington *et al.* in view of Kipriyanov *et al.* (Molecular Biotechnology, 1999, 12: 173-201).

Solely to advance prosecution, and not in acquiescence to the rejections, Applicant has cancelled claims 85, 87, 100, 102, 113 and 115; thus, this rejection is rendered moot.

C. Rejections Under 35 U.S.C. § 103(a) over Edgington et al. in view of Koomagi et al. in further view of Kipriyanov et al.

On page 13 of the present Office Action, claims 85, 87, 100, 102, 113 and 115 were rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over Edgington *et al.* in view of Koomagi *et al.* in further view of Kipriyanov *et al.*

Solely to advance prosecution, and not in acquiescence to the rejections, Applicant has cancelled claims 85, 87, 100, 102, 113 and 115; thus, this rejection is rendered moot.

D. Rejections Under 35 U.S.C. § 103(a) over Edgington et al. in view of Caron et al.

On page 14 of the present Office Action, claims 83, 98 and 111 were rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over Edgington *et al.* in view of Caron *et al.* (J. Exp. Med., 1992, 176: 1191-1195).

Solely to advance prosecution, and not in acquiescence to the rejections, Applicant has cancelled claims 83, 98 and 111; thus, this rejection is rendered moot.

E. Rejections Under 35 U.S.C. § 103(a) over Edgington et al. in view of Koomagi in further view of Caron et al.

On pages 14-15 of the present Office Action, claims 83, 98 and 111 were rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over Edgington *et al.* in view of Koomagi *et al.* in further view of Caron *et al.*

Solely to advance prosecution, and not in acquiescence to the rejections, Applicant has cancelled claims 83, 98 and 111; thus, this rejection is rendered moot.

F. Rejections Under 35 U.S.C. § 103(a) over Edgington et al. in view of Huston et al.

On pages 15-16 of the present Office Action, claims 86, 101 and 114 were rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over Edgington *et al.* in view of Huston *et al.* (U.S. Pat. No. 5,534,254).

Solely to advance prosecution, and not in acquiescence to the rejections, Applicant has cancelled claims 86, 101 and 114; thus, this rejection is rendered moot.

G. Rejections Under 35 U.S.C. § 103(a) over Edgington et al. in view of Koomagi et al. in further view of Huston et al.

On pages 16-17 of the present Office Action, claims 86, 101 and 114 were rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over Edgington *et al.* in view of Koomagi *et al.* in further view of Huston *et al.*

Solely to advance prosecution, and not in acquiescence to the rejections, Applicant has cancelled claims 86, 101 and 114; thus, this rejection is rendered moot.

IV. Rejections Under 35 U.S.C. § 112

On pages 6-8, claims 91-93, 105-107 and 118-120 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. The Examiner alleges that the instant specification does not appear to disclose that the cell lines secreting the recited antibodies have been deposited under the Budapest Treaty or provide assurances that the recited material will be irrevocably and without restriction or condition released to the public upon issuance of a patent, and that said material will be replaced if the material becomes available.

Attached herewith is a Declaration by a person in a position to make such assurances to corroborate that PTA-5196, PTA-5197, PTA-5674, PTA-5676 and PTA-5677 have been deposited under the Budapest Treaty and are the same as described in the specification as filed. *See* ¶¶ 1-6. Furthermore, the Declaration assures that all restrictions on the availability to the public of the deposited biological material will be irrevocably removed upon the granting of a patent, subject to 37 C.F.R. § 1.808(a) (2006). *See* ¶ 7. In accordance with 37 C.F.R. § 1.807(a) (2006), the Declaration assures that the deposit will be maintained and that it will be replaced if it should ever become unviable. *See* ¶ 7. Additionally, Applicant has attached the "Receipt in the Case of an Original Deposit Issued Pursuant to Rule 7.3 and Viability Statement Issued Pursuant to Rule 10" for PTA-5196, PTA-5197, PTA-5674, PTA-5676 and PTA-5677. *See* Exhibits A and B. Thus, Applicant respectfully requests the rejection be withdrawn.

On pages 8-9, claims 29, 30, 32, 33, 78, 79, 82-92, 94-106, 108-119 and 121-125 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the restriction requirement. The Examiner alleges that the support cited for the limitation "an increase in percent cytotoxicity of tissue factor positive cells compared to a negative control antibody" is only pertinent to the specifically named antibodies TF260, TF278 and TF392.

Solely to advance prosecution, and not in acquiescence to the rejections, claims 29, 33 and 78 are sought to be amended to delete the phrase "an increase in percent cytotoxicity of tissue factor positive cells compared to a negative control antibody" from independent claims 29, 33 and 78. Furthermore, claims 29, 33 and 78 are sought to be amended to incorporate the limitations of previously presented claims 93, 107 and 120,

which includes a specific hybridoma cell line from which the antibody is obtained. Thus, Applicant respectfully requests the rejection be withdrawn.

On pages 9-12, claims 91, 92, 94, 95, 105, 106, 108, 109, 118, 119, 121 and 122 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Applicant has cancelled claims 91, 92, 94, 95, 105, 106, 108, 109, 118, 119, 121 and 122 without prejudice or disclaimer, rendering this rejection moot.

On pages 17-18, claims 88, 103 and 116 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that it is unclear how the antibodies administered in claims 88, 103 and 116 comprise cytotoxicity activity.

Applicant has cancelled claims 88, 103 and 116 without prejudice or disclaimer, rendering this rejection moot.

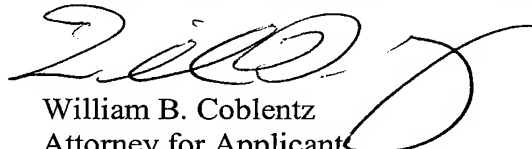
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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